REMARKS

Claims 3-6, 8, 10-13, 15, 17, 18 and 21 are now in this Application, and are presented for the Examiner's consideration.

Additional Fee

An additional fee of $210.00 is being paid herewith for the extra independent claim in excess of three. Applicant is a large entity.

No new issues presented

Since there are no limitations that raise new issues herein, but merely clarify language or overcome §112 problems, it is requested that the present Amendment be entered and considered.

Double Patenting

Claim 20 was objected to as being identical to claim 15.

Claim 20 has been canceled.

Accordingly, it is respectfully submitted that the objection to claim 20 has been overcome.

Rejection of Claims under 35 U.S.C. §112

Claims 3-6, 8, 10-13, 15, 17, 18, 20 and 21 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

As to claims 8, 17, 18 and 21, it was stated that the "region of discontinuity being in the form of at least one of cuts, slots and perforations" is not clear as to whether or not a single elongated cut would satisfy this limitation.

It is submitted that the language "at least one of cuts, slots and perforations" refers to at least one from the set of a) cuts, b) slots and c) perforations. Therefore, if a) cuts is selected, then it is in the plural and there are a plurality of cuts. If b) slots is selected, then it is in the plural and there are a plurality of slots. The same applies to c) perforations. Therefore, there are always a plurality of cuts, a plurality of slots and/or a plurality of perforations.

However, to make this absolutely clear, claims 8, 17, 18 and 21 have been amended only to clarify the language without adding any new limitations, in order to recite "at least one of the following:

cuts,

slots and

perforations."

This makes it absolutely clear that there is not a single cut.

It is noted that all embodiments in the present application are in the plural. In this regard, dependent claims 3, 4, 10 and 11 have been also been amended to limit the same to a "line of cuts", thereby making this language absolutely clear.

Accordingly, it is respectfully submitted that the rejection of claims 3-6, 8, 10-13, 15, 17, 18, 20 and 21 under 35 U.S.C. §112, second paragraph, has been overcome.

Prior Art Rejections

Claims 3-5 and 21 were rejected under 35 U.S.C. §102(b) as being anticipated by DE 19954899.

DE 19954899 discloses two versions of a moisture protection seal arrangement for packaging. The first embodiment shown in Figs. 1 to 3 is a separate label, having a "wall part" 1, an adhesive layer 2 and a top "sealing agent" 4. A line of perforations 3 is provided in the wall part 1. The sealing agent 4 is said to be either a lacquer or a film. The label is intended to be applied over an opening in the packaging and, if there is a build up of gas in the packaging, the label fails at the line of perforations 3 and the sealing layer also tears along this line to enable the gas to be vented.

In the embodiment of Figure 4, the perforation is provided integrally on a package and is covered over with a sealing layer 4. There is no label layer.

This rejection uses a combination of these two distinct embodiments. Specifically, whereas the embodiment of Figs. 1-3 discloses a label 1 with a line of perforations 3 applied to packaging, the line of perforations 3 in the embodiment of Fig. 4

is built into the packaging and there is no separate label with perforations. It is therefore submitted that this combination of two completely different embodiments that are very unrelated to each other is improper.

Further, and more importantly, all of the limitations of the claims of the present application are not disclosed or suggested by either the embodiment of Figs. 1-3 or the embodiment of Fig. 4, taken singly or in combination.

Specifically, it is submitted that the embodiment of Figs. 1-3 does not disclose or even remotely suggest a valve member separably connected to the label. For example, claim 21 recites "said at least one region of discontinuity ... penetrate the label layer to form a valve member separably connected to the label, the valve member being adhered to the packaging container in overlying relation to the small aperture, and said at least one of cuts, slots and perforations are interrupted by portions of material of the label which act to tie the valve member to said label. Claims 8, 17 and 18 recite similar limitations.

It is clear that the valve member is an element formed in the label that becomes a separate element, for example, the separate flap member 20. Further, the independent claims recite that this separably connected valve member 20 is formed by the cuts, slots and/or perforations 14.

There is no separably connected valve member in DE 19954899, let alone one that is formed by perforations 3 thereof.

The Fig. 4 embodiment does not disclose or even remotely suggest a label with cuts, slots or perforations at all, since the cuts 3 are formed in the container itself.

If the Examiner is of a contrary opinion, the Examiner is requested to specifically indicate which element of DE 19954899 is a valve element separably connected to the label and which is formed by cuts in the label.

The only recitation in the Office Action of a flap member is element 3 in the embodiment of Fig. 4. However, element 3 is a cut in the container itself, and not in the sealing layer 4. There is no label, as defined by the claims herein, in the Fig. 4 embodiment of DE 19954899.

Further, the claims recite that the at least one of cuts, slots and perforations are interrupted by portions of material of the label which act to tie the valve member to said label layer. The portions of material which act to tie the valve member to the label layer are formed by elements 22 in the present application. There is only a single line of perforations 3 in DE 19954899, and these certainly do not function to tie a valve member to the label layer, as claimed.

Accordingly, it is respectfully submitted that the rejection of claims 3-5 and 21 under 35 U.S.C. §102(b), has been overcome.

Claims 8, 10-12, 15 and 20 were rejected under 35 U.S.C. §103(a) as being obvious from DE 19954899 in view of U.S. Patent No. 4,640,838 to Isakson et al.

The remarks previously made above in regard to DE 19954899 are incorporated herein.

It was further stated in the Office Action that there are at least two converging cuts forming a flap member in Fig. 4 of DE 19954899, formed by element 3. See the last line on page 3 - the first line on page 4 of the Office Action. However, element 3 in Fig. 4 is a single curved line of perforations. There is no disclosure or even a remote suggestion of two distinct converging cuts, as with cuts 14 in Fig. 1 of the present application. Furthermore, the single perforation line in DE 19954899 is formed in the container itself in Fig. 4, and not in a label applied over a cut in the container.

Isakson et al was merely cited for disclosing a backing layer inherently comprising a release material and a label layer with an adhesive layer. However, Isakson et al fails to cure any of the aforementioned deficiencies of DE 19954899.

Specifically, Isakson et al fails to disclose or suggest a valve member separably connected to the label and formed by the cuts. As discussed above, DE19954899 fails to disclose or suggest such a separably connected valve member in the embodiment

of Figs. 1-3, and fails to disclose or suggest any cuts or valve member in a label in the embodiment of Fig. 4.

Consequently, even if these two documents are combined, they would still not disclose or suggest the claimed combination of features herein.

Accordingly, it is respectfully submitted that the rejection of claims 8, 10-12, 15 and 20 under 35 U.S.C. §103(a), has been overcome.

Claim 13 was rejected under 35 U.S.C. §103(a) as being obvious from DE 19954899 in view of Isakson et al, and further in view of British Patent No. GB 2315256.

The remarks previously made above in regard to DE 19954899 and Isakson et al are incorporated herein.

GB 2315256 was cited for disclosing a label including peripheral perforations and a tab for lifting up the label. However, GB 2315256 is not concerned at all with venting of a packaging. It merely proposes a removable label. There are no perforations that form a valve element that is separably connected. This is the key to the present invention.

It is submitted that one skilled in the art of creating a covering label for a vent opening in a package would not even consider a merely detachable label which has no relation to venting. In order to combine references, there must be a logical

reason to do so or some suggestion in the art. Neither is present here.

Further, even if the references were combined, they would still not disclose or suggest the present claimed invention of cuts forming a valve element that is separably connected to the label.

Accordingly, it is respectfully submitted that the rejection of claim 13 under 35 U.S.C. §103(a), has been overcome.

Claims 3-5, 17, 18 and 21 were rejected under 35 U.S.C. §103(a) as being obvious from U.S. Patent No. 5,989,608 to Mizuno in view of DE 19954899.

The remarks previously made above in regard to DE 19954899 are incorporated herein.

Mizuno relates to a microwavable food container, and discloses a pressure regulation valve which is placed over a hole in the cover film of the food container. There are four primary embodiments of the pressure regulating valve shown in Mizuno, and these are best shown in Figures 5, 9A, 10B and 15A, respectively.

Mizuno discloses a relatively complex pressure regulation valve for containers that include a gas permeable film 58, an adhesive layer 54 and a cover film 52. Pressure is regulated by the valve by virtue of the adhesive 54 surrounding a non-adhesive area 56 holding down the valve portion until a predetermined

pressure is achieved. Since there is no suggestion of or logical reason for a need to augment the adhesive with additional means for regulating pressure, i.e., the perforations that define the flap/valve, it is submitted that one skilled in the art would not look to the teaching of DE 19954899 to adapt the disclosure of Mizuno.

Mizuno already discloses a complex way of regulating steam pressure, and including perforations would make it more complex still, whereas the invention claimed in the present application is characterized by an elegant, simple and low cost solution, requiring a simple label with an all-over layer of adhesive and cuts/slots/perforations to form the valve.

In this regard, it is noted that Mizuno only discloses a single part circular line that defines valve portion 52b. In Mizuno, it is necessary that the flap 52b raise up entirely at one end, as shown in Fig. 9A, except at the one connected area hinge area shown in Fig. 9B. The cut region of the single part circular line thereby raises up. In effect, the flap 52b is connected by a single connected area. To tie down this flap at the single part circular line, would be contrary to the teachings of this patent.

On the other hand, the claims herein recite that the valve includes a number of cuts, slots or perforations (in the plural) which are separated by regions of the label layer, so that the

valve is effectively "tied" to the label at these cut regions of the label layer, as described on page 8, lines 4-11 of the present application. In this regard, the valve of the present claimed invention cannot raise up. This is because it is tied to the label between the cuts.

The advantages of this are as follows:

(a) it allows a greater amount of pressure to build up before the steam is vented, thereby allowing the food to be steam cooked more effectively, and

(b) it prevents premature opening of the valve as a result of pressure build up during storage, as described at page 5, lines 22-31 of the present application.

Therefore, if the single part circular line of Mizuno were used in the embodiment of DE 19954899, the entire flap would be raised, contrary to the limitations of the present claimed invention which recites that "said at least one of cuts, slots and perforations are interrupted by portions of material of the label which act to tie the valve member to said label."

Accordingly, it is respectfully submitted that the rejection of claims 3-5, 17, 18 and 21 under 35 U.S.C. §103(a), has been overcome.

Claim 6 was rejected under 35 U.S.C. §103(a) as being obvious from DE 19954899 in view of GB 2315256.

The remarks previously made above in regard to DE 19954899 and GB 2315256 are incorporated herein.

It is noted that claim 6 has been rewritten in independent form.

It is noted that none of the references disclose a fold, scored or creased region as claimed. Figure 3 of GB 2315256 shows a portion 22 that is intended to be torn off entirely from a label for use as a money-off coupon and has one cut side and three perforated sides. None of the sides is folded, scored or creased. The portion 22 is not intended to be used as a valve.

It is also noted that claim 6 recites two aspects, namely:

a) the at least one of cuts, slots and perforations are interrupted by portions of material of the label which act to tie the valve member to the label. These are the areas 22 between the cuts 14 that tie down the valve member.

b) flap member is provided with one of a fold, scored and creased region which serves to impart a hinge action assisting movement of the flap member. This is the hinge 16, 24 or 26. This serves to aid the flap 20 to lift and act as a valve member.

None of the references, either singly or in combination, show both the tying of the flap 20 between the cuts, and a separate hinge member.

Accordingly, for the same reasons give above, it is respectfully submitted that the rejection of claim 6 under 35 U.S.C. §103(a), has been overcome.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

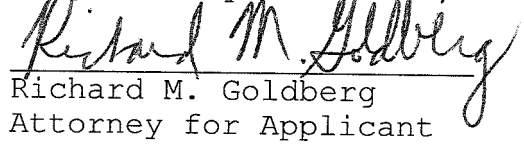
In the event that this Paper is late filed, and the necessary petition for extension of time is not filed concurrently herewith, please consider this as a Petition for the requisite extension of time, and to the extent not tendered by check attached hereto, authorization to charge the extension fee, or any other fee required in connection with this Paper, to Account No. 07-1524.

The Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1524.

In view of the foregoing amendments and remarks, it is respectfully submitted that Claims 3-6, 8, 10-13, 15, 17, 18 and 21 are allowable, and early and favorable consideration

thereof is solicited.

Respectfully submitted,



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